

**IN THE UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

**UNITED STATES OF AMERICA,**

**v.**

**Criminal Action No. 3:02-cr-00231  
Honorable Robert C. Chambers**

**JOHN DAVID MOONEY,**

**Defendant.**

**DEFENDANT'S RENEWED REQUEST FOR STANDARD DISCOVERY  
AND MOTION FOR GRAND JURY MATERIALS**

COMES NOW the Defendant, by counsel, Nicholas S. Preservati and Joseph L. Jenkins, of Preservati Law Offices, PLLC, and hereby renews its request for standard discovery and moves this honorable Court for grand jury materials and in support thereof states as follows:

1. That on October 31, 2002 Defendant's requests for standard discovery were granted. (Arraignment Order and Standard Discovery Requests, Case No. 3:02-cr-00231, Document 8, October 31, 2002).

2. That on December 12, 2002 this Court ordered the government to provide all disclosable grand jury material to the Defendant. (Order, Case No. 3:02-cr-00231, Document 14, December 12, 2002).

3. That on February 26, 2003, with the advice of counsel, Defendant pled guilty to the single count contained in the indictment, a felon in possession of a firearm in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2).

4. That on May 12, 2003, Defendant's motion to withdraw his plea of guilty was denied and Defendant was sentenced to 180 months imprisonment.

5. That on August 6, 2007, by published opinion, the United States Court of Appeals for the Fourth Circuit granted Defendant's appeal, allowing Defendant to withdraw his plea of guilty. *U.S. v. Mooney*, No. 06-7565 (4<sup>th</sup> Cir. August 6, 2007) (Case No. 3:02-cr-00231, Document 86, August 8, 2007).

6. That on August 9, 2007, the undersigned counsel, Nicholas S. Preservati, was appointed to represent Defendant upon remand from the United States Court of Appeals for the Fourth Circuit.

7. That in furtherance of Defendant's representation, counsel requires the necessary standard discovery and grand jury materials previously provided to Defendant's prior counsel to ensure counsel has all information available for adequate representation and trial preparation.

Respectfully submitted,

**John David Mooney,**  
By counsel,

s/Nicholas S. Preservati  
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**CERTIFICATE OF SERVICE**

I certify that on the 21<sup>st</sup> day of September, 2007, I filed the foregoing **Defendant's Renewed Request for Standard Discovery and Motion for Grand Jury Materials** with the Court using CM/ECF which will send notification of such filing to the following CM/ECF participants:

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